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**FEDERAL ELECTION COMMISSION**  
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**CELA**

**FIRST GENERAL COUNSEL'S REPORT**

RAD REFERRAL 13L-03

DATE RECEIVED: February 20, 2013

DATE OF NOTIFICATION: February 28, 2013

DATE ACTIVATED: August 12, 2013

EARLIEST SOL: May 25, 2017

LATEST SOL: July 17, 2017

ELECTION CYCLE: 2012

**SOURCE:**

Internally Generated

**RESPONDENTS:**

Liberatore for Congress-2012 and Louis G.  
Baglietto, Jr. in his official capacity as treasurer

**RELEVANT STATUTES  
AND REGULATIONS:**

2 U.S.C. § 434(a)-(b)

11 C.F.R. § 104.1(a)

11 C.F.R. § 104.3(a)

11 C.F.R. § 111.43

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

None

**I. INTRODUCTION**

The Reports Analysis Division ("RAD") referred Liberatore for Congress-2012 and Louis G. Baglietto, Jr. in his official capacity as treasurer (the "Committee") to the Office of General Counsel ("OGC") for failing to disclose receipts of \$600,000 in its original 2012 12 Day Pre-Primary Report. See Memorandum from Patricia C. Orrock, Chief Compliance Officer, FEC, to Anthony Herman, General Counsel, FEC (Feb. 20, 2013) ("Referral").

Based on the available information, we recommend that the Commission open a matter under review ("MUR") and find reason to believe that the Committee violated 2 U.S.C. § 434(b) by failing to accurately disclose receipts. Additionally, we recommend that the Commission

enter into pre-probable cause conciliation with the Committee

## II. FACTS

The Committee is the principal campaign committee of Philip L. Liberatore, a candidate in the 2012 primary for the U.S. House of Representatives in California's Eighth Congressional District.<sup>1</sup> See Amended Statement of Organization (Mar. 16, 2012). Louis G. Baglietto, Jr. is the Committee's treasurer.

On May 25, 2012, the Committee filed its original 2012 12 Day Pre-Primary Report covering the period from April 1, 2012 through May 16, 2012, which disclosed \$243,156 in receipts. 2012 12 Day Pre-Primary Report at 3 (May 25, 2012). The receipts included three loans totaling \$200,000 from Liberatore (\$50,000 on April 3, 2012; \$50,000 on April 18, 2012; and \$100,000 on April 30, 2012). See *id.* at 16.

Thereafter, on July 17, 2012, the Committee filed an Amended 2012 12 Day Pre-Primary Report disclosing receipts totaling \$843,156, an increase of \$600,000 from the original report. Amended 2012 12 Day Pre-Primary Report at 3 (July 17, 2012). The additional receipts consisted of two more loans from Liberatore (\$100,000 on May 6, 2012 and \$500,000 on May 11, 2012). *Id.* at 17.

On August 24, 2012, RAD sent the Committee a Request for Additional Information ("RFAI") requesting clarification of the substantial increase in receipts that were not disclosed in the original filing. Referral at 1-2. RAD contacted the treasurer and the candidate on several occasions to provide the Committee an opportunity to explain the omitted receipts, but the Committee has provided no explanation to date. See Referral at 2. On October 24, 2012, the

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<sup>1</sup> Liberatore lost the primary election. See <http://www.fec.gov/pubrec/fe2012/2012congressresults.pdf>.

1 Committee filed a second Amended 2012 12 Day Pre-Primary Report. That amendment,  
2 however, disclosed no change in receipts from the previous amendment and provided no  
3 explanation for the omitted receipts. *Id.*; see Amended 2012 12 Day Pre-Primary Report at 3  
4 (Oct. 24, 2012).

5 RAD referred the Committee to OGC for failing to disclose additional receipts totaling  
6 \$600,000.<sup>2</sup> Upon receipt of the Referral, OGC notified the Committee about this matter on  
7 February 28, 2013. See *Agency Procedure for Notice to Respondents in Non-Complaint*  
8 *Generated Matters*, 74 Fed. Reg. 38,617 (Aug. 4, 2009). We have not received a response to the  
9 notification.

### 10 III. LEGAL ANALYSIS

11 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires committee  
12 treasurers to file reports of receipts and disbursements in accordance with the provisions of  
13 2 U.S.C. § 434. 2 U.S.C. § 434(a)(1); 11 C.F.R. § 104.1(a). These reports must include, *inter*  
14 *alia*, the total amount of receipts, the total amount of all loans made by the candidate to his  
15 authorized committee, and the date and amount of each loan. 2 U.S.C. § 434(b)(2), (3)(E);  
16 11 C.F.R. § 104.3(a)(3)(vii), (4)(iv).

17 Here, the Committee did not comply with the Act's reporting requirements when it failed  
18 to disclose a total of \$600,000 in receipts on its original 2012 12 Day Pre-Primary Report. We

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<sup>2</sup> RAD referred the matter to OGC pursuant to *Reports Analysis Division Review and Referral Procedures for Authorized Committees for 2011-2012 Election Cycle* at 75 (approved by Comm'n Apr. 5, 2011). Standard 7 of those procedures states that a case will be referred to OGC for review when (i) an amendment or amendments are filed at least five business days after the original report was filed; (ii) the amendment or amendments disclose an increase or decrease of more than [redacted] in receipts, disbursements, or debts; and (iii) for an election-sensitive report, the increase or decrease is in excess of [redacted] or for a non-election sensitive report, in excess of [redacted] *Id.* The increased activity outlined in the Referral meets this threshold. The amendment to this election sensitive report was filed over 35 business days after the original report and disclosed \$600,000 in receipts not included in the original report.

therefore recommend the Commission open a MUR and find reason to believe that the  
Committee violated 2 U.S.C. § 434(b).

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V. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that Liberatore for Congress-2012 and Louis G. Baglietto, Jr. in his official capacity as treasurer violated 2 U.S.C. § 434(b).
3. Approve the attached Factual and Legal Analysis.
4. Enter into conciliation with Liberatore for Congress-2012 and Louis G. Baglietto, Jr. in his official capacity as treasurer, prior to a finding of probable cause to believe.
- 5.
6. Approve the appropriate letter.

Daniel A. Petalas  
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10-30-13  
Date

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